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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1588 OF 1994

Shankar Pandurang Poddar
through his heirs -
Ramesh Shankar Poddar & Ors. ... Petitioners

Vs.

The Commissioner of Payment
& 2 Ors. ... Respondents

Ms. Manisha Virkhare for the petitioners.

Ms. Meena Doshi for the respondents.

CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED: 16TH DECEMBER 2005.

P.C.:-

1. Heard the learned counsel appearing for the parties.

2. It appears from the impugned order that the original petitioner's claim was rejected vide Award dated 23/4/1979 on the ground that no records were available to find out whether he and others had ever worked in the mill concerned and also on the ground that the original petitioner and others had not turned up for hearing. The original petitioner had again requested for payment of his past dues vide letter dated 1/9/1989. That request was rejected vide letter dated 19/9/1989 on the ground that by the Award, claim of the original petitioner and others was rejected. The original petitioner was advised to prefer an appeal to the Principal Civil Court in terms

of section 23(7) of the Sick Textile Undertakings (Nationalisation) Act, 1974. The original petitioner, however, did not prefer the appeal. In the circumstances, in our opinion, since the original petitioner had not adopted the alternative remedy, which was available to him in law, no relief can be granted to him. Hence, the petition is dismissed.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)